

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Specification/Claim Rejections – 35 USC § 112

The specification is objected to for failing to provide proper antecedent for the claimed subject matter. As suggested by the Examiner, the term “receptacle vessel isolating device” is changed to “receptacle vessel positioner assembly” throughout the claims. Accordingly, we request that the objection to the specification be withdrawn.

Claim Rejections – 35 USC § 102/103

Independent claims 1 and 15 have been amended by incorporating the limitations of claims 5 and 17, respectively, and claims 5 and 17 have been cancelled. Claims 5-7 and 17-19 are rejected under 35 USC §103 as being obvious over U.S. Patent No. 5,888,454 to Leistner (“Leistner”) in view of U.S. Patent No. 5,445,794 to Wihlborg (“Wihlborg”). We respectfully traverse the rejections of claims 5 and 17.

While admitting that Leistner does not disclose the limitations of claims 5 and 17, the Examiner nevertheless argues that it would have been obvious to modify Leistner in view of Wihlborg to include inlet and outlet door assemblies adapted to move between open and closed positions. For the following reasons, we respectfully disagree.

The stated objective of Leistner was to provide a luminometer that limits “the transference of light between adjacent sample vessels.” *See* Leistner at col. 1, lines 41-45. To achieve this objective, Leistner created what he calls “light traps,” which are barriers around the measuring openings of sample vessels that are designed prevent light transference between

sample vessels. *See* Leistner at col. 1, lines 46-48. Leistner discloses two types of “light traps” for preventing light transference. *See* Leistner at col., lines 49-63, and col. 2, lines 42-49. The first type of light trap disclosed by Leistner is a transverse shield, an example of which is shown in Figures 2 and 4-6. The illustrated transverse shield includes a shield projection 42 encircling an opening 36 in an inlet aperture 18 leading to a photomultiplier 10, where the shield projection 42 form fits into a recessed area 28 between sample vessels 20 of a sample plate 16 to provide a light-tight engagement. *See* Leistner at paragraph bridging columns 3 and 4. The second type of light trap disclosed by Leistner is a shield plate 74, an example of which is shown in Figure 3b. The illustrated shield plate 74 includes a transport frame 82 that can be secured to a sled 72 adapted to receive the sample plate 16. *See* Leistner at col. 4, lines 52-64.

Because Leistner’s invention achieves the stated objective of eliminating light transference between sample vessels, there would have been no motivation to further modify Leistner to include a housing having inlet and outlet door assemblies which permit the passage of a receptacle vessel in open positions and control the entry of ambient light into the housing in closed positions. *See* Leistner in paragraph bridging columns 4 and 5 (the transverse shield 42 “prevent[s] the spill-over of light between the individual sample vessels 20”(emphasis added)).

Wihlborg discloses an alternative means for shielding sample vessels from external light, which is nothing more than a closeable measuring chamber 5. *See* Wihlborg at col. 1, lines 45-57. Accordingly, we submit that the skilled artisan would not have viewed the closeable measuring chamber of Wihlborg as anything more than an alternative to the means disclosed by Leistner for isolating the contents of a sample vessel. Moreover, the Examiner has not indicated how the measuring device of Leistner, which laterally moves a multi-vessel plate 16 on a

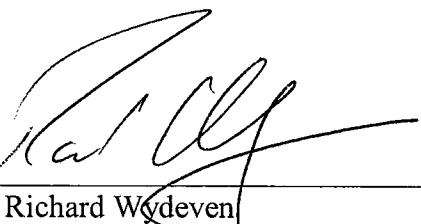
positioning device 14 beneath the photomultiplier 10 (*see* Leistner at col. 3, lines 26-38), could even be adapted to include the closeable measuring chamber 5 of Wihlborg 5, which accommodates single test tubes moved downwardly by gravity (*see* Wihlborg at col. 2, lines 17-27). Thus, we submit that the Examiner's reasoning improperly relies upon hindsight reconstruction.

Based on the foregoing remarks, applicants submit that the instant application is now in condition of allowance and respectfully request allowance of the instant application.

Respectfully submitted,

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